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Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

1998 Biennial Regulatory Review --)
Amendment of Parts 2, 25 and 68 of the)
Commission's Rules to Further Streamline)
the Equipment Authorization Process for)
Radio Frequency Equipment, Modify the)
Equipment Authorization Process for)
Telephone Terminal Equipment, Implement)
Mutual Recognition Agreements and Begin)
Implementation of the Global Mobile Personal)
Communications by Satellite (GMPCS))
Arrangements)

GEN Docket No. 98-68

Comments of Motorola, Inc.

Leigh Chinitz
Manager, Telecommunications Strategy
Government Relations
1350 I Street, N.W.
Washington, D.C. 20005
202-371-6940
202-842-3578

Barry Lambergman
Manager, Satellite Regulatory Affairs
1350 I Street, N.W.
Washington, D.C. 20005
202-371-6929
202-842-3578

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Comments of Motorola, Inc.

Motorola, Inc., hereby submits its Comments in response to the Commission's *Notice of Proposed Rule Making* ("NPRM") released May 18, 1998.¹ Motorola commends the Commission for this latest effort in the campaign to improve the equipment authorization process.

Interest and Summary

Motorola is one of the nation's leading manufacturer of radio equipment for the various wireless services. In addition, it is one of the world's leading manufacturers of semiconductors employed in equipment subject to the Commission's equipment authorization process. With headquarters in Schaumburg, Illinois, Motorola has manufacturing, product design, sales and

¹ A summary of the *NPRM* was published in the *Federal Register* on June 10, 1998, 63 Fed. Reg. 31,685.

service facilities throughout the world. Major facilities are located in 45 locales spread across 23 countries of the world, including the United States. Motorola Corporate Sales in 1997, totaling over 29 billion dollars, break out approximately as follows:

- United States: 42%
- Latin America and Canada: 5%.
- Europe, Middle East, Africa: 25%
- Other Asia-Pacific: 10%
- China, Hong-Kong, Japan: 18%

A further indication of the geographic diversity of Motorola's operations is that for the years 1995, 1996, and 1997, manufacturing and distribution operations in any single non-U.S. country did not account for more than 10% of consolidated net sales or total assets.

Because of the impact of equipment authorization on world trade, Motorola has followed the development of the mutual recognition agreements that the United States has entered into with the European Community and with the Asian Pacific Economies. As both an applicant for equipment authorizations worldwide and as a supplier of components to other applicants, the Commission's equipment authorization program and those of this nation's trading partners directly affect Motorola. In many cases, other countries rely on equipment approval by the U.S. Federal Communications Commission as the key that opens the regulatory door to their markets. Having participated in the FCC's program since it was first applied to mobile equipment, Motorola offers these comments from the perspective of a user and supporter of the Commission's equipment authorization program.

In these Comments, Motorola urges the Commission to:

- Establish speed of service goals for Telecommunications Certification Bodies that will ensure that 90% of applications are processed within ten days of receipt.

Facilitate world trade by (a) keeping in place its own equipment authorization program for the foreseeable future, (b) placing its own imprimatur on TCB grants of authorization (c) establishing uniform documentation standards for the issuance of authorization grants by TCBs, and (d) listing on its website the names of TCBs designated by the FCC to authorize products;

Make clear that TCBs are to accept data from manufacturer's laboratories provided that reasonable steps have been taken by the TCB and the manufacturer to ensure that the manufacturer will provide reliable data to the TCB as part of the certification process;

Clarify the approach to surveillance testing that will be used by TCBs;

Implement an up-to-date and widely accessible system for providing and disseminating interpretations of the Commission's rules that affect equipment certification;

Clarify certain definitions used in the proposed rules that would implement the TCB approval process; and

Move promptly to certify, on an interim basis, GMPCS equipment that meets all the acceptable regulations under Parts 1, 2, and 25 of the FCC rules and a stringent out-of-band emission standard.

I. The Privatization and MRA Implementation Efforts Should be Designed to Improve Time-to-Market.

In the *NPRM*, the Commission notes that it has “consistently endeavored to minimize the burden of [its] equipment authorization and registration programs on manufacturers ...” and that it is acting in this proceeding to reduce further this burden.² The product development cycle continues to shrink. Today, the life of a product is often 400 days instead of two to five years. A 40 day cycle time for equipment authorization means that 10 % of the life of the product has

² *NPRM*, ¶ 6.

been spent at the approval gate.³ In today's environment, these lost sales are unlikely to be recovered. Accordingly, a 10 cycle time would benefit both consumers and manufacturers.

The exigencies of the manufacturing process require change and flexibility as never before. Cost reduction efforts, the input of customer feedback, just-in-time parts deliveries, and supplier changes all add to this pressure. Consequently, the greatest service the Commission could perform to reduce the burden would be to minimize the length of time associated with an effective approval process. By implementing a system of telecommunication certification bodies ("TCBs") authorized to issue grants of equipment authorization, the FCC will be taking a substantial step toward reducing the time in queue as a major impediment to the introduction of new products and the continued manufacture of existing products.

In keeping with this objective the Commission should set service goals for TCBs and require that speed of service figures be collected and published by the TCBs using a uniform procedure. Motorola urges the Commission to set a goal for TCBs to process 90% of applications within ten working days of receipt. Speed of service statistics should be forwarded monthly to the Commission for posting on the OET website and should be made available by TCBs.⁴ This will help to promote real competition among TCBs and to ensure maximum benefit for the nation's telecommunications equipment manufacturers and consumers.

³ While products generally can last much longer, the market now requires new models to be implemented at increasingly shorter intervals, *i.e.* product life cycles" are becoming shorter.

⁴ In adopting rules and policies for greater reliance on private frequency coordinators in the private land mobile radio services, the Commission found it appropriate to establish speed of service requirements. *Frequency Coordination in the Private Land Mobile Radio Services*, 103 FCC 2d 1093 (1986).

II. The Commission Should Facilitate World Trade by Continuing its Equipment Authorization Program and by Taking Steps to Have the TCB Program Gain International Acceptance.

In the *NPRM* the Commission notes that it proposes to continue indefinitely the processing of equipment applications submitted to it.⁵ The FCC should continue to operate its equipment authorization program for the foreseeable future. By so doing, the Commission will not only help to overcome any impediments associated with the initiation of the TCB process, it will also provide a much-needed option for those companies that require a grant of equipment authorization from the Commission in order to satisfy foreign governments that the U.S. government has approved a product. Thus, there are countries that look to U.S. approval as the key to their own domestic markets. Eventually, these nations may accept grants from TCBs. Initially at least, they will be likely to continue to accept only a grant that was issued by the Commission.

To hasten the day when foreign nations will accept a grant from a TCB for equipment approved to U.S. standards, Motorola urges the Commission to require that the grant of authorization be issued using uniform documentation. Thus, a grant from one TCB should not look more or less official than a grant from another TCB. To this end, the Commission should develop not only a uniform format for the issuance of the grant of authorization under the FCC regulations, but it should also stipulate the language to be used in the authorization and how the authorization is recognized by the Commission.⁶

⁵ *Id.*, ¶ 20.

⁶ For TCBs designated by other parties to mutual recognition agreements, the Commission should work for agreement on the form of the authorization. Such authorizations issued by TCBs that are not designated by the Commission must, in keeping with the applicable MRA,

(Continued...)

In order to increase the acceptability to foreign nations of the grant of authorization to U.S. standards by a TCB designated by the Commission, Motorola also urges the Commission to implement a process by which a covering certificate would be issued by the Commission that would at least acknowledge that a TCB acting pursuant to authority conferred by the Commission had granted the associated approval. Such a document could take the form of a "receipt" mailed by the FCC to the grantee upon receipt by the Commission of the electronic version of the granted application as filed by the TCB. The issuance of monthly public notices electronically would also aid such recognition.

International acceptance of future grants of equipment authorization will also be facilitated by the FCC's continued issuance of grantee codes. Indeed, the U.S. - EC MRA appears to contemplate as much.⁷

The Commission should work to educate other countries as to the validity of authorizations issued by TCBs. If regulators in other nations hear directly from the Commission that the TCB approach reflects the official policy of the United States regulatory authorities, the likelihood that an authorization issued by a TCB will be accepted internationally will be increased. As part of this effort, the Commission should list TCBs designated by it on the FCC website along with an explanation of the TCB approach.

(...Continued)

open the door to the U.S market. These grants, however, should clearly note the designating authority in order to minimize confusion within nations that are not parties to the MRA, but which look to FCC approvals for entry to their own markets.

⁷ U.S. - EC MRA, Para. 2.1 of the Telecommunication Equipment Sectoral Annex and Para. 2.1 of the of the Electromagnetic Compatibility Sectoral Annex.

By maintaining its own equipment authorization program and by implementing the steps suggested above the Commission will help to minimize any disruptions associated with starting the TCB approach. Eventually, the Commission may want to revisit the necessity for maintaining its own program. Any such evaluation should, however, be well into the future and should then take into account international acceptance of grants issued by TCBs. Thus, the Commission's own program should continue until such time as it is evident that TCBs have gained international acceptance, have demonstrated that their approvals are routinely granted efficiently in a competitive environment, and have become available for the broad range of services in which the Commission regulates equipment.

III. The Commission Should Allow TCBs to Subcontract with Manufacturers' Labs for Data Used in Support of a Manufacturer's Application Without Requiring that the Submitting Lab be Accredited.

In the *NPRM* the Commission proposed to allow TCBs to contract with manufacturers to obtain data in support of the manufacturers' applications if the laboratories of the manufacturers are accredited or have "been assessed by the [TCB] in accordance with ISO/IEC Guide 65."⁸ *ISO/IEC Guide 65* does not require that the manufacturer's lab be accredited. It does, however, require that the lab be competent and that there be sufficient protections in place to guard against the compromise of impartiality.⁹ Therefore, Motorola supports the Commission's proposal for acceptance of data from manufacturers' labs on the basis of confidence building measures that are clearly set forth by the TCBs.

⁸ *NPRM*, Appendix A, proposed Section 2.960(c)(1).

⁹ *ISO/IEC Guide 65* at ¶ 4.4 b).

The situation with respect to laboratory accreditation under the Declaration of Conformity approach correctly differs from that under the TCB approach. Requiring accreditation of manufacturers' laboratories that perform testing in support of a declaration of conformity makes sense because such testing will, upon completion, effectively open the door to marketing without further review. The TCB approach, however, was designed to increase the efficiency of the equipment authorization process by allowing the TCB to stand in the stead of the Commission in order to process and grant routine equipment authorization applications. Currently, manufacturers who submit certification applications to the Commission are not required to have their laboratories accredited. Just as accreditation of manufacturers' labs in the current case in which the Commission issues the grant of authorization has not been shown to be needed, accreditation of manufacturers' labs is not needed when an accredited lab serves as a TCB and reviews the application submitted by the manufacturer.

The main issue is for the TCB to have the requisite confidence in the competence of the manufacturer's laboratory. Requiring that this always be achieved through accreditation would foist needless procedures upon every manufacturer that wished to continue with the testing of its own equipment. Steps short of accreditation should be allowed in order for a manufacturer's laboratory to demonstrate such competence. Of course, the TCB should be prepared to provide the Commission the basis for such confidence. Requiring accreditation would also raise the specter of some labs being able to function as TCBs while manufacturers would be forced to undergo the expense of accreditation needed to become a TCB without being able to function as TCBs.

In short, if the TCB approach is to replace the Commission in the processing of routine equipment authorization applications, TCBs should be permitted to accept data from

manufacturers' unaccredited labs if the TCB can demonstrate a basis for confidence in the manufacturer's laboratory procedures, equipment, and personnel. TCBs should be required to list publicly the criteria that would be used in determining their acceptance of data from manufacturers' laboratories. These could include, for example, reasonable on-site inspections, the submittal under penalty of perjury of a detailed description of procedures sufficient to show competence for those types of measurements for which expertise is claimed, or a history of certification or type acceptance grants by the Commission to the manufacturer on the basis of data submitted from the laboratory.

The Commission should also make clear that while it does not propose to regulate the rates of TCBs, it will require that those rates be commensurate with the services provided. Accordingly, TCBs should not be allowed to charge rates for approvals based on data from manufacturers' laboratories that fail to bear a reasonable relationship to the services actually provided by the TCB. Without such oversight, the risk would be greater that TCBs would charge the same for approvals based on the TCB's testing as on the manufacturer's testing.¹⁰

IV. Miscellaneous Clarifications.

Surveillance. The Commission proposes to mandate that TCBs undertake certain continuing compliance reviews for equipment that they have approved.¹¹ A better approach

¹⁰ Although the pressures of competition may reduce the likelihood of such anti-competitive behavior, a clear statement from the Commission would reinforce the principle, particularly in the early stages of the TCB approach during which a truly competitive market may not have developed. Such a principle would also be in keeping with the provisions of Article 18 of the U.S. - EC MRA ("Each party shall endeavor to ensure that fees imposed for services under this Agreement shall be commensurate with the services provided.").

¹¹ *NPRM*, ¶ 12.

would be for the Commission to conduct such testing as it now does through post-grant sampling. This would reassure other governments of the Commission's continued oversight. It would also reduce marketing problems with the TCBs' conducting audit testing of their customers.¹²

Should the Commission insist that post-grant testing be done by TCBs, the selection of products to be tested should be made by the Commission in order to reduce the prospect of a conflict between the TCB and its customer. In the *NPRM* the Commission did not address the cost of such post-grant testing by TCBs. At least indirectly, the cost will be borne by the customers of the TCB. Motorola submits that to the extent that the TCB system is to function in a manner similar to the equipment authorization program administered by the Commission, the manufacturer should pay for the shipment of the equipment to and from the TCB, but the cost of such testing should be included in the general overhead of the TCB. Thus, under the current system, the Commission does not bill its grantees for the post-grant sampling and testing of equipment.

Submittal of equipment that is no longer in production should be required only if needed to resolve a complaint of harmful interference. In such cases, the request should always come from the Commission with the recognition that special arrangements may need to be made by the grantee to secure a unit for submittal.

¹² In this sense no TCB would be put in the potentially awkward position of singling out one of its customers for additional testing. The selection of products to be tested would be made by the Commission even if the testing were conducted by the TCB.

Rule Interpretations. The Commission emphasizes the necessity for TCBs to keep informed as to interpretations of the Commission's Rules.¹³ The same can be said for those entities that submit applications to TCBs and to the Commission. The Commission has made a commendable start at making interpretations of certain Part 15 regulations available on its website. Unfortunately, the press of other FCC business and the retirement of personnel appear to have relegated this effort to a low priority. If the TCB program is to be a success, the Commission will need to devote additional resources to keeping both TCBs and applicants informed of rule interpretations involving equipment authorizations. These should be made available to TCBs and to applicants worldwide in order to increase the understanding of all entities that must deal with the authorization of equipment to the U.S. standards.

Similarly, the Commission should work with the other parties to the mutual recognition agreements in order for interpretations of the parties' rules to be made available for the benefit of TCBs and applicants in this country who seek to have equipment approved in the United States for marketing abroad. It would hardly be fair nor serve the interests of U.S. based manufacturers for such information to remain unavailable or difficult to obtain within this country.

Post Grant Activities. Proposed Section 2.962(f) uses terms that are not defined. Section 2.962(f)(2) refers to the "importing party." It appears that this means the country into which a product is imported. At least such usage seems to be consistent with the use of the same term in

¹³ *Id.*, ¶ 13. The U.S. - EC MRA, Telecommunications Equipment Annex, Para. 3.3(b), sets forth "developing a mechanism for ensuring consistency of interpretations of legislation, regulations, standards, and conformity assessment procedures" as a task that may be undertaken by the Joint Sectoral Committee. The focus of these efforts should be on the dissemination of information and should not result in yet another layer of review and consultation being imposed on those who seek interpretations of the Commission's regulations.

the U.S. - EC MRA.¹⁴ The meaning of the term should either be defined in the rules or clarified in the report and order.

Proposed Section 2.962(f)(3) uses the term “supplier” but this term is not defined. The term is, however, defined in *ISO/IEC Guide 65* at Para. 3.1 as

The party that is responsible for ensuring that products meet and, if applicable, continue to meet, the requirements on which the certification is based.

The definition in *ISO/IEC Guide 65* tracks well the definition of “responsible party” in Section 2.909 of the FCC Rules. Note, however, that Section 2.909 of the rules does not refer to Part 68 nor is it incorporated by reference into Section 2.1300 of the Rules as pertaining to Part 68 registrations. Motorola submits that the Commission should clarify Section 2.962(f)(3) to make clear that the reference to “supplier” refers to the holder of the grant of equipment authorization, either certification or registration.

Proposed Section 2.962(f)(4) refers to the “manufacturer” but does not elaborate as to how the requirement would apply in cases in which one entity builds equipment to the specification of and under the name of another entity. Here, too, the rule should make clear that the obligations relate to the entity that is responsible under the grant of equipment authorization.¹⁵

¹⁴ U.S. - EC MRA, Telecommunications Equipment Annex, Section III, Para. 2. Similarly, the term “appropriate importing party” is used in proposed Section 2.962(f)(3) of the proposed rules, apparently in reference to the country into which a product is imported.

¹⁵ This would be consistent with the approach followed for equipment subject to a declaration of conformity. In such situations the Commission allows the company for whom the equipment is built to assume the responsibility for compliance in making the declaration of conformity. 47 C.F.R. § 2.1073(b) (1997).

V. FCC Certification of GMPCS Terminals Will Facilitate the Global Implementation of GMPCS Systems.

Motorola strongly supports the Commission's decision to "immediately begin to certify, on an interim basis, GMPCS equipment that meets all the acceptable regulations under Parts 1, 2, and 25 of our rules and a stringent out-of-band emission standard. . ."¹⁶ Such a certification procedure is critical to meeting the objective of the first World Telecommunication Policy Forum (Kyoto-96) of facilitating the early introduction of Global Mobile Personal Communications Service systems such as Motorola's IRIDIUM system.

IRIDIUM marks the first time that Motorola is introducing the same product at the same time around the world. Having to get this equipment type approved in a large number of countries simultaneously is a difficult and time consuming process under the current regulatory environment. With the initiation of IRIDIUM service only two months away, having an FCC equipment approval will help ensure that Motorola is able to distribute IRIDIUM handsets on a timely basis in the many countries where having FCC equipment certification expedites the type approval process. While FCC equipment certification for GMPCS terminals may appear on the surface to constitute an additional regulatory burden, it will actually reduce the overall regulatory burden, delay and costs of equipment certification when viewed in a global context.

FCC equipment certification will also provide a basis on which implementation of the GMPCS-MoU Arrangements can begin for early systems like IRIDIUM. In order to affix the GMPCS-MoU mark on a terminal, the manufacturer must obtain a type approval from an Administration that has indicated to the ITU that it intends to implement the Arrangements. As

¹⁶ *NPRM*, ¶ 40.

stated in the NPRM, the Commission will soon initiate a proceeding on domestic implementation of the Arrangements and it is Motorola's understanding that the U.S. Government will very shortly send a letter to the ITU evidencing its intent to implement the Arrangements. Therefore, by providing for a GMPCS equipment certification option in the U.S. now, the Commission makes it possible for GMPCS terminal manufacturers to use the widely-respected FCC equipment certification as the basis for placing the GMPCS-MoU mark on their terminals and for GMPCS systems to begin to enjoy the benefits of the Arrangements during the pendency of the domestic implementation proceeding.

While these early beneficiaries of the Arrangements will largely be mobile satellite systems, an FCC equipment certification program will be equally important for other types of GMPCS systems, such as fixed broadband systems, as they enter the market in the coming years. In this connection, the Commission states that it will request comment in a future proceeding on the appropriate technical requirements for all types of GMPCS terminals. Motorola agrees that it will be important to broaden the focus of the technical aspects of GMPCS equipment certification and looks forward to working with the Commission on those issues.

During this interim phase of the Commission's GMPCS equipment certification program, GMPCS equipment will be required to meet all of the relevant Part 25 and Part 1 standards concerning frequency range, tolerance, out-of-band emission, spurious emission limits to protect Global Positioning Systems ("GPS"), and RF exposure.¹⁷ The Commission did not seek comment on any of these technical standards in this proceeding. It noted, however, that the National Telecommunications and Information Administration ("NTIA") recently submitted a

¹⁷ *Id.*, ¶ 45.

petition for rule making in which it asked the Commission to amend Part 25 of the Rules to specify limits to protect Global Navigation Satellite System ("GNSS") equipment operating within the 1559-1605 MHz radionavigation satellite service band.¹⁸ The NTIA petition proposed that out-of-band signals in the 1559-1605 MHz band from MSS mobile earth terminals operating in the 1610-1660.5 MHz band ultimately be limited to -70 dBW/MHz for wide band emissions and -80 dBW/700 Hz for narrow band emissions.¹⁹ The Commission stated that it "will initiate a separate rule making to consider the NTIA proposal."²⁰ The Commission further indicated that the issues raised by the NTIA petition in RM-9165 were intended to resolve any out-of-band emission questions concerning protection to GNSS, including GPS.

On June 26, 1998, LSC, Inc., apparently a consulting entity, submitted "Comments on Protection for GPS/GLONASS Radionavigation Systems" in response to the NPRM. LSC argues that the out-of-band emission limits referred to in paragraphs 44-45 of the NPRM "will likely prove inadequate for protecting GPS and GLONASS radionavigation systems from excessive desensitization."²¹ As noted above, however, the Commission specifically stated that protection of GNSS is more properly addressed in the context of RM-9165, where NTIA has proposed specific protection levels. The inclusion of GPS protection level issues in this

¹⁸ RM-9165.

¹⁹ Interim GNSS protection levels from MSS terminals were also proposed up until the year 2005.

²⁰ *NPRM*, ¶ 44.

²¹ LSC Comments at 1.

proceeding would unnecessarily delay global distribution of mobile earth terminals and implementation of satellite services generally.

Indeed, the Commission has stated that it "will be conditioning ... interim approval for GMPCS terminal equipment operating in the band 1610-1626.5 MHz on the ability for the application to meet the strictest out-of-band emission limit proposed at this time, specifically, NTIA's out-of-band emission limit[s]" ²² The Commission must not deviate from this approach. To do otherwise, in effect, would provide any party opposed to GMPCS or MSS with veto power over the entire interim equipment certification program and enable them to delay the availability of GMPCS service. This is certainly not what the Commission intended when it specified the most stringent out-of-band emissions limits proposed by NTIA as the interim protection levels for GNSS during GMPCS implementation, nor would it be in the public interest. Moreover, the Commission has stated that MSS satellite operators, service providers and mobile earth terminal manufacturers "are advised that all final FCC equipment approvals will be conditioned on meeting the requirements and procedures adopted in our future GMPCS MoU implementation proceeding, including the specific spurious and out-of-band emission limits adopted in that proceeding." ²³ Accordingly, LSC's comments, which raise alternative standards to those proposed by NTIA's in RM-9165, should not be considered in this docket. They are prematurely filed comments in the NPRM associated with RM-9165.

²² *NPRM*, ¶ 45.


²³ *Id.*, ¶ 46.

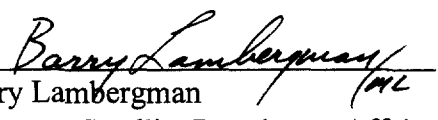
Conclusion

This proceeding represents a major milestone on the road to making the equipment authorization processes more efficient and in the implementation of mutual recognition agreements entered into by the United States. As such, Motorola urges the Commission to move forward with the goal of reducing the burdens associated with delays in the approval of equipment by implementing the goal of having 90% of the applications received by TCBs processed within ten working days. The Commission should also work to have the authorizations issued by the TCBs be accepted in other nations as equivalent to a grant of authority issued by the Commission. At the same time, the new processes should be fair and clear with the Commission retaining the level of oversight needed to ensure that the procedures do not compromise compliance. Finally, the Commission should move promptly to "immediately begin to certify, on an interim basis, GMPCS equipment that meets all the acceptable regulations under Parts 1, 2, and 25 of [the FCC] rules and a stringent out-of-band emission standard."

Respectfully,

Motorola, Inc.

By 
Leigh Chinitz
Manager, Telecommunications Strategy
Government Relations
1350 I Street, N.W.
Washington, D.C. 20005
202-371-6940
202-842-3578 (fax)

By 
Barry Lamberman
Manager, Satellite Regulatory Affairs
1350 I Street, N.W.
Washington, D.C. 20005
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